Labor Relations

Basic Supervisor's
Personnel Management Course

BASIC EMPLOYEE RIGHTS UNDER 5 USC CHAPTER 71:

An employee has the right to:

- FORM, JOIN, or ASSIST a labor organization;
- ACT AS A REPRESENTATIVE of a labor organization;
- BARGAIN COLLECTIVELY through a labor organization.

BARGAINING UNIT EXCLUSIONS
5 USC 7112

- Supervisory/Management Officials
- Personnelists (non-clerical)
- Assistants to general labor relations policy officials
- Employees engaged in work affecting national security
- Employees who perform agency investigative or audit activities
- Professional employees in a mixed pro/non-pro unit

DEFINITION OF A SUPERVISOR

IAW 5 USC 7103: A supervisor is a person who is authorized, with respect to employees, to do or recommend at least one of the following:

-hire -promote -direct employees

-transfer -furlough -suspend

-assign -remove -reward

-recall -lay-off -adjust grievances

-discipline

DUTY TO BARGAIN

Personnel Policies

- Merit Promotion/Hiring & Reduction In Force (RIF)/Furlough Procedures

Personnel Practices & Working Conditions

- Parking assignments; picnics; employee lockers; location of coffee makers and microwave ovens; office space/design; type and placement of office furniture, etc . . .

NON-NEGOTIABLE MANAGEMENT RIGHTS

5 USC 7106

- Determine mission, budget, organization, employee numbers and internal security
- Hire, direct, lay-off and retain employees
- Suspend, remove, reduce (grade/pay) or discipline employees

NON-NEGOTIABLE MANAGEMENT RIGHTS

5 USC 7106

- Assign work, contract out, and determine which personnel will perform operations
- Select and appoint employees
- Take necessary emergency actions

UNION RIGHTS WHEN GRANTED EXCLUSIVE RECOGNITION

5 USC 7114

- May negotiate agreements for all employees in the collective bargaining unit
- Responsible for representing the interests of all bargaining unit employees – whether or not a dues paying member
- Must be given the opportunity to be represented at all formal management-employee discussions

UNION RIGHTS WHEN GRANTED EXCLUSIVE RECOGNITION

Must be given the opportunity to be present at any investigative examination of a unit employee, IF the employee…

- . . . reasonably believes the examination may result in disciplinary action,

AND

- . . . requests representation*

INVESTIGATIVE INTERVIEWS

WEINGARTEN RIGHTS

(5 USC 7114)

NEGOTIATED GRIEVANCE PROCEDURES

Coverage:

- All employee grievances except those excluded by 5 USC 7121 (c) (political activities, benefits, adverse actions, etc…) and/or 32 USC 709 (f) (NG Technician Act provisions)
- Must provide for settlement of questions or arbitration
- Must provide for final and binding arbitration

NEGOTIATED GRIEVANCE PROCEDURES

Coverage (continued):

- Limits employees to either union or self representation
- Does NOT apply to people excluded from the bargaining unit

NEGOTIATED GRIEVANCE PROCEDURES

Reference: Contract § 6.4

- Step 1 (Informal)**:** The grievance shall be discussed first by the aggrieved employee(s) with the immediate supervisor
- Step 2 (Formal): The grievance will be submitted, in writing, to the Activity Head
- Step 3: The grievance will be submitted directly to the Adjutant General
- Step 4: A request may be made to the Association, in writing, that the grievance be submitted for arbitration

What is the difference between a Grievance and a ULP?

- **Grievance**
- Alleged violation of a contract provision, a past practice, or a condition of employment
- Filed according to the procedures outlined in your Collective Bargaining Agreement (“Contract”)
- **Unfair Labor Practice**
- Alleged violation of the Federal Service Labor-Management Relations Statute
- Filed with the FLRA - Federal Labor Relations Authority - The independent agency responsible for administering the Federal Service Labor-Management Relations Statute (FSLMRS).

MANAGEMENT UNFAIR LABOR PRACTICES

under 5 USC 7116(a)

- Interference, restraint, or coercion of an employee in the exercise of assured rights
- Encourage or discourage membership in a labor organization by discrimination with respect to conditions of employment
- Sponsor, control or otherwise assist a labor organization

MANAGEMENT UNFAIR LABOR PRACTICES

- Discipline or discriminate against an employee because he/she has filed a complaint or given testimony under 5 USC 7116
- Refuse to consult/negotiate
- Fail to cooperate in impasse procedures
- Enforce rules or regulations in conflict with a prior collective bargaining agreement

Other Topics of Interest

- Formal Discussions
- Official Time
- Past Practice

WHAT IS A FORMAL DISCUSSION?

Under 5 USC 7114

A discussion which is…

- formal in nature,
- between one or more representatives of the agency AND one or more bargaining unit employees or representatives, ***AND***
- related to any grievance or any personnel policy, practices or other general condition of employment

MANAGEMENT OBLIGATIONS

- Notify the appropriate union representative of the meeting
- Afford union the opportunity to attend and to select its own representative
- Allow the union representative to actively participate at the meeting

THERE IS NO FORMAL DISCUSSION WHEN/IF…

Discussion is about, and with, an individual employee related to his/her:

- Personal problems
- Job performance
- Performance evaluation
- Oral reply to proposed disciplinary action

During impromptu meetings on the shop floor

USE OF OFFICIAL TIME

5 USC 7131 provides that internal union business shall be conducted during the non-duty hours of the employees concerned

MUST approve for: Collective Bargaining FLRA Proceedings

MAY approve for: Other representational* activities

MAY NOT approve for: Internal union business

OFFICIAL TIMECARD CODES

Code BA - Term Negotiations: Official time used by Union Representatives to prepare for and negotiate a basic collective bargaining agreement or its successor.

Code BB - Mid-Term Negotiations: Official time used by to bargain over issues raised during the life of a term agreement.

Code BK - Dispute Resolution: Official time used to process grievances up to and including arbitrations and appeals of bargaining unit employees before various third parties, such as the MSPB, FLRA, EEOC and, the courts.

Code BD - General Labor/Management Relations: Official time used for activities not included in the above three categories. Examples of such activities include meetings between labor and management officials to discuss general conditions of employment, labor-management committee meetings, labor relations training for union representatives, and union participation in formal meetings and investigative

PAST PRACTICE

Once the parties establish a practice it becomes a condition of employment and must be bargained

You do not have to bargain over the decision to change a practice which conflicts with law or a government-wide regulations (5 USC 7117)

- Management is not free of the obligation to provide the union with advance notice of its intent to change what has been a condition of employment
- Management must also bargain, on request, on bargain-able proposals which come back as a result on notification of a change to a condition of employment

Questions

Contact HRO/LRS
304-561-6422 or DSN 623-6422